



# **FREDERICK COUNTY PLANNING COMMISSION**

## **March 12, 2014**

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**TITLE:** **Dick's Sporting Goods-FSK Mall**

**FILE NUMBER:** **SP-74-01, AP # 14030, APFO # 13973, FRO # 13988**

**REQUEST:** **Site Development Plan and APFO Approval**  
The Applicant is requesting site development plan and adequate public facilities approval to construct a 50,180 square foot retail addition onto the existing FSK Mall, on a 48.06-acre site.

### **PROJECT INFORMATION:**

**ADDRESS/LOCATION:** 5616 Buckeystown Pike; between the existing DSW and Sear's stores, within the FSK Mall parking area

**TAX MAP/PARCEL:** Tax Map 77, Parcel 187

**COMP. PLAN:** Mixed Use Development (MX)

**ZONING:** General Commercial (GC)

**PLANNING REGION:** Frederick

**WATER/SEWER:** W-1/S-1

### **APPLICANT/REPRESENTATIVES:**

**APPLICANT:** P.R. Financing, Ltd.

**OWNER:** P.R. Financing, Ltd.

**ENGINEER:** Daft, McCune & Walker, Inc.

**ARCHITECT:** N/A

**ATTORNEY:** N/A

**STAFF:** Tolson DeSa, Principal Planner II

**RECOMMENDATION:** Conditional Approval

### **ATTACHMENTS:**

Exhibit #1- Site Plan Rendering

Exhibit #2- Parking Space Modification Justification

Exhibit #3- Loading Space Modification Justification

Exhibit #4- Dick's Sporting Goods APFO Letter of Understanding

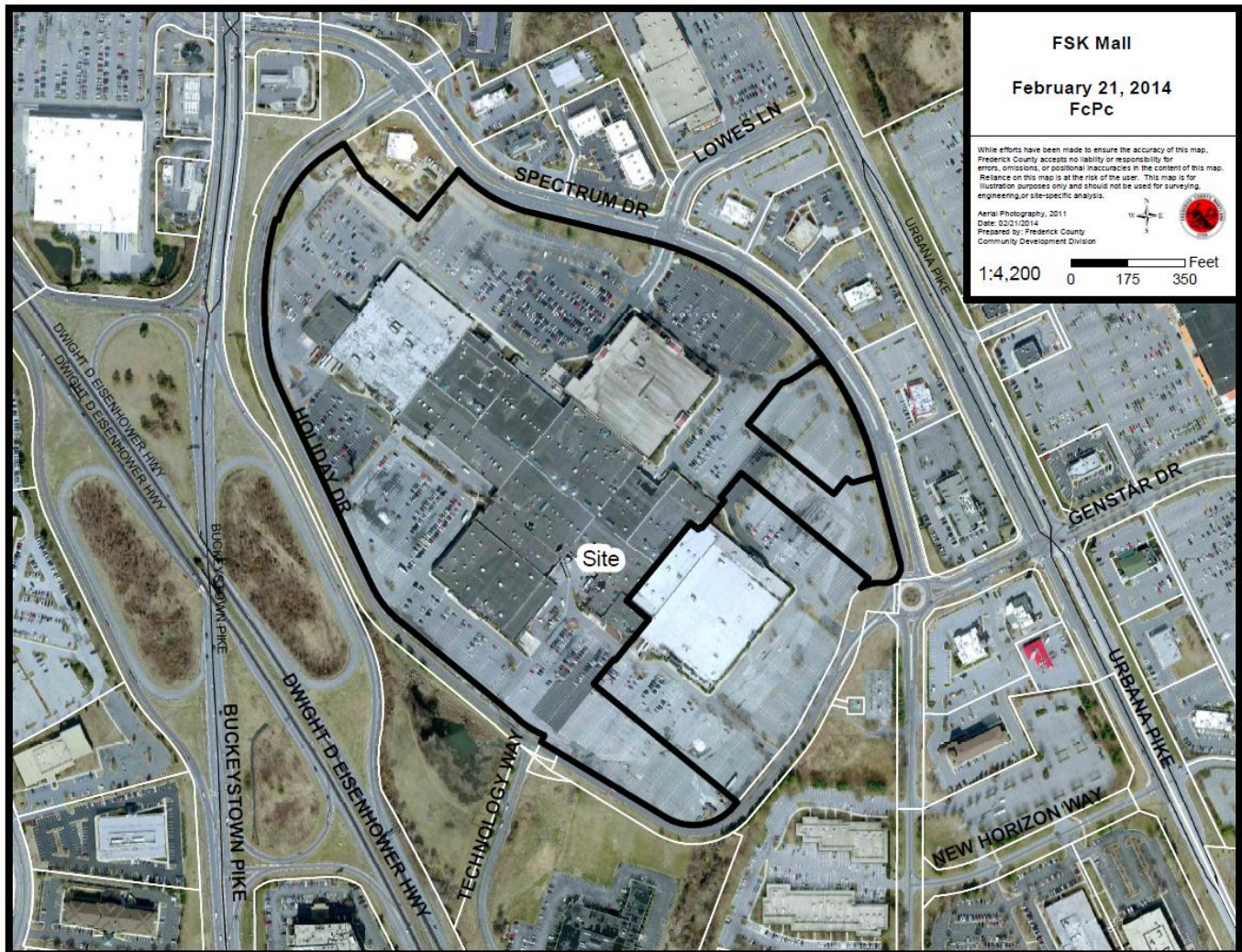
# STAFF REPORT

## ISSUE

### Development Request

The Applicant is requesting site development plan and adequate public facilities approval to construct a 50,180 square foot retail addition onto the existing FSK Mall, on a 48.06-acre site. The proposed use is being reviewed as a "Shopping Center" land use under the heading of *Commercial Uses-Retail* per §1-19-5.310 Use Table in the Zoning Ordinance and is a principal permitted use in the General Commercial Zoning District subject to site development plan approval (See Graphic #1).

Graphic #1 FSK Mall Aerial



## BACKGROUND

### Development History

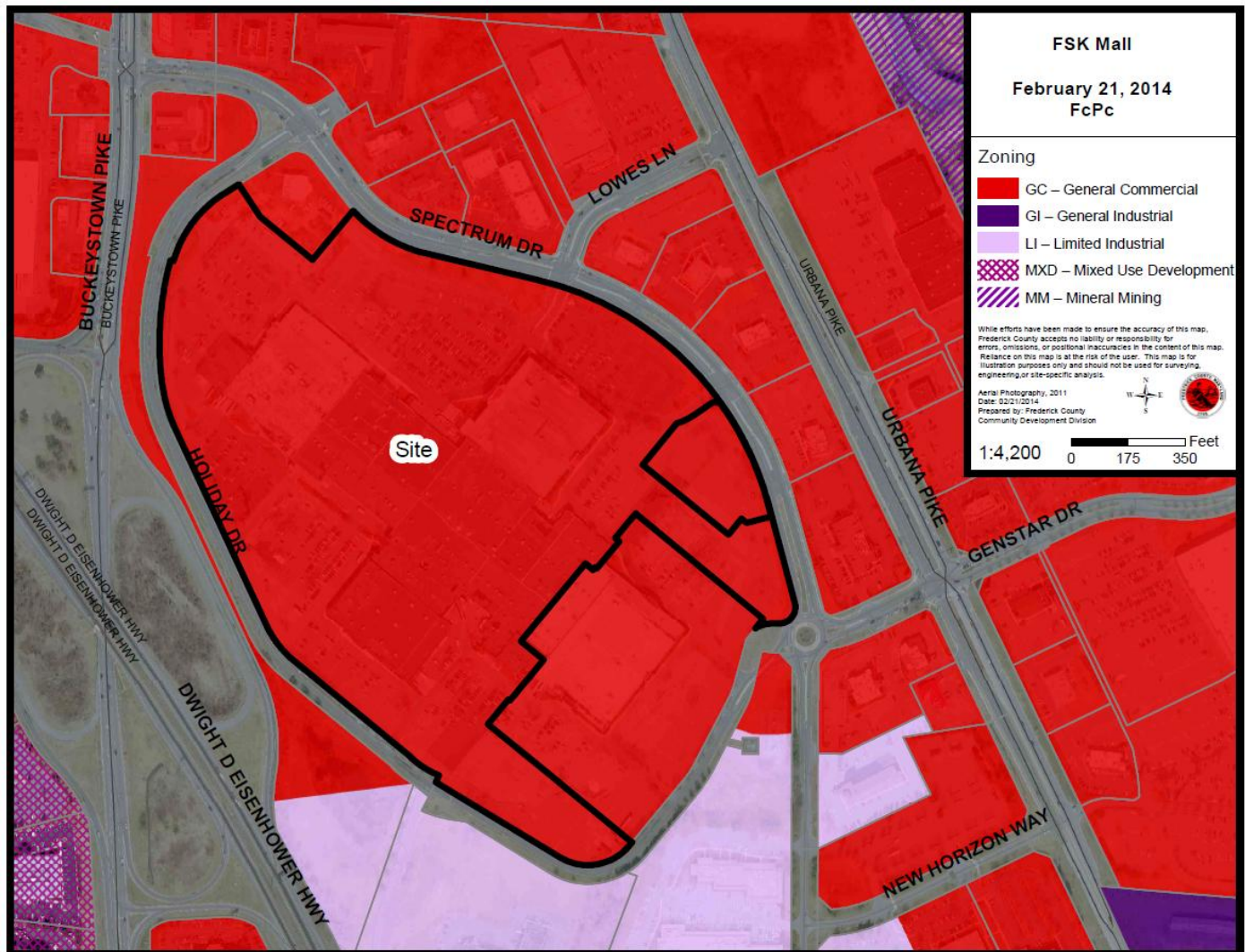
The FSK Mall was constructed in 1974; the portion of the site where the proposed retail expansion will be located was originally constructed as a surface parking lot. There is no subdivision of land proposed as part of this land development.



## Existing Site Characteristics

The site is currently zoned General Commercial (GC), and is developed as parking area and retail space for FSK Mall (see Graphic #2).

Graphic #2: FSK Mall Zoning Map



## ANALYSIS

### Summary of Development Standards Findings and Conclusions

The key issues related to this site are the following: integrated design of the building within the FSK Mall parking lot, pedestrian connections between the parking area and the proposed retail expansion, as well as retrofitting the surrounding parking lot with additional landscaped islands.

Staff and the Applicant worked on the overall design of the building in order to achieve an orderly entry into the site, with the building façade presented to Holiday Drive and efficient vehicle and pedestrian circulation throughout the site. The Applicant has agreed to install sidewalks around the retail building expansion area as well as three large crosswalks leading from the existing parking area into the proposed retail building.

## Detailed Analysis of Findings and Conclusions

Site Development Plan Approval shall be granted based upon the criteria found in §1-19-3.300.4 Site Plan Review Approval Criteria of the Frederick County zoning ordinance.

**Site Development §1-19-3.300.4 (A):** *Existing and anticipated surrounding land uses have been adequately considered in the design of the development and negative impacts have been minimized through such means as building placement or scale, landscaping, or screening, and an evaluation of lighting. Anticipated surrounding uses shall be determined based upon existing zoning and land use designations.*

### **Findings/Conclusions**

- 1. Dimensional Requirements/Bulk Standards §1-19-6.100:** **Dimensional Requirements/Bulk Standards §1-19-6.100:** Section 1-19-6.100 of the Zoning Ordinance stipulates the setback requirements and the minimum lot area for the proposed use. The setback requirements for a 'commercial use' within the GC zoning district for a shopping center land use are a 25-foot front yard with rear and side yard setbacks equal to the height of the structure. The maximum height allowed is 60 feet; the retail building is proposed to be 27.4' feet in height. The proposed plan meets the required Bulk/Dimensional requirements.
- 2. Signage §1-19-6.300:** Signage will comply with Zoning Ordinance Sections 1-19-6.300 through 1-19-6.320. Within the GC zoning district the maximum signage is calculated at  $10 \sqrt{F}$ , where F is the length of the side of the building facing a public street (measured in lineal feet). The mall structure has building faces on multiple public streets; therefore F shall equal the total of measurement A and measurement S.

The Applicant is proposing a sign package consisting of building mounted signs that will not exceed 210 square feet with a maximum height of 25 feet, which complies with Zoning Ordinance requirements.

- 3. Landscaping §1-19-6.400:** The Applicant has proposed a landscape plan in accordance with Zoning Ordinance Section 1-19-6.400. The proposed plan includes new street trees along Holiday Drive as well as preserving existing vegetation throughout the Dick's Sporting Goods portion of the FSK Mall site. The Applicant has also worked with Staff in order to retrofit numerous painted islands within the existing parking area into landscaped islands, as well as to construct new landscaped islands, in order to bring the FSK Mall parking lot closer to compliance with Section 1-19-6.400.D.1 & 2.
- 4. Lighting §1-19-6.500:** The Applicant is proposing to relocate 3 existing 50' tall poles into proposed islands within the redesigned Dick's Sporting Goods parking area. A maximum height of 18' is allowed within commercial zoning districts by zoning ordinance provisions. However, Staff worked with the Applicant in order to design a lighting plan that removes or relocates existing poles that were located within the parking field in order to create a more orderly lighting scheme. The existing light poles were retained in order to provide uniformity within the mall parking area where the existing poles are used throughout the site. The Applicant is also proposing 8 building mounted lights at a height not to exceed 20' on the eastern and western faces of the proposed structure. Although the lighting plan was designed to minimize the light spillage at the property line, the levels are slightly above 0.5 foot candles due to the existing lights along Holiday Drive as well as the I-270 ramp. There are no adjacent residential zoning districts or properties around the mall; the closest commercial structure is approximately 1,500 feet to the south of the nearest light pole. Staff does not object to the levels of light spillage due to existing lighting along Holiday Drive which functions as the ring road around the FSK Mall and supports

**Dick's Sporting Goods-FSK Mall**

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the lighting modification per 1-19-6.500.G. The Applicant is requesting a modification in accordance with Zoning Ordinance Section 1-19-6.500.G which states:

*(G) The Planning Commission may modify the lighting standards within this section based on characteristics of the proposed use, photometric studies, nationally recognized standards, or other documentation as approved by the Planning Commission.*

**Conditions:** Lighting modification in accordance with Zoning Ordinance Section 1-19-6.500.G, to permit the utilization of 3 existing 50 foot tall parking lot light poles and to permit light spillage in excess of 0.5 foot candles into the existing public road (Holiday Drive).

**Transportation and Parking §1-19-3.300.4 (B):** *The transportation system and parking areas are adequate to serve the proposed use in addition to existing uses by providing safe and efficient circulation, and design consideration that maximizes connections with surrounding land uses and accommodates public transit facilities. Evaluation factors include: on-street parking impacts, off-street parking and loading design, access location and design, vehicular, bicycle, and pedestrian circulation and safety, and existing or planned transit facilities.*

### **Findings/Conclusions**

1. **Access/Circulation:** The Applicant proposes to use the existing FSK Mall entrances off of Holiday Drive to serve the proposed retail expansion. The entrances meet County standards for a commercial entrance. The proposed entrances meet sight distance requirements and have been approved by Development Review Engineering Staff.
2. **Connectivity §1-19-6.220 (F):** The site's main access point is an existing private entry drive which is located off of Holiday Drive. Holiday Drive provides connectivity between the mall and surrounding development. In addition, connections within and between parking areas on site provide for efficient circulation between retail operations. The intersection of the private entry drive and Holiday Drive is a full movement intersection that permits a left or right onto Holiday Drive. The Applicant will also install landscaped islands within the existing parking area that will help channel traffic entering and exiting the site.
3. **Public Transit:** This site is well served by County TransIT: the Route-20 Francis Scott Key Mall Connector and Route 10 Mall to Mall Connector. Both bus routes drop off and pick up at the FSK Mall and on Spectrum Drive, which is a short and safe walk from the site.
4. **Vehicle Parking and Loading §1-19-6.200-through 1-19-6.220:** Pursuant to §1-19-6.220 of the Zoning Ordinance, parking space requirements for a Shopping center 100,000 square feet or greater is 4.5 spaces for each 1,000 square feet of gross leasable area.

Therefore, the 739,827 square feet of leasable shopping center floor area of FSK Mall, requires 3,329 spaces. After the construction of the proposed Dick's Sporting Goods is complete the mall will have 3,315 parking spaces. In accordance with Zoning Ordinance Section 1-19-6.220.A.1, the Applicant is requesting a parking space modification for the (14) space parking deficiency (Exhibit #2). Additionally, the Zoning Ordinance 1-19-6.240 allows for shared parking amongst similar uses and the parking provided by the FSK Mall is more than sufficient for the existing and proposed uses. Staff has no objection to the requested parking space modification.

Store	Parking Spaces Provided	
	Existing Conditions	Proposed Conditions (After Dick's Sporting Goods)
Red Robin	73	73
BJ's	129	129
Macy's	754	754
Mall Remainder	2,610	2,283
Dick's Sporting Goods	0	198
Mall Totals +	3,445	3,315
Mall Gross Leasable Area	703,886 sq ft	739,827 sq ft *
<b>Parking Ratios *</b>		
Spaces per 1,000 GFA	4.9	4.5
+ Mall Totals include 40% of Red Robin and BJ's Parking Spaces.		
* Existing conditions parking ratio is based on the mall gross leasable area (GLA) of 739,827 square feet. Ex. Conditions: 703,886 sq ft. Prop Conditions: 703,886 sq ft + 80% * 50,180 sq ft – 4,203 sq ft (Lost Area) = 739,827 sq ft.		

**Loading §1-19-6.210:** In accordance with Z.O. Section 1-19-6.210 the Applicant is required to provide 3 large 12' x 50' loading spaces. The Applicant is proposing 1 large 12' x 50' loading space, and is requesting a loading space modification in accordance with Z.O. Section 1-19-6.210.D (See Exhibit#3). The Applicant has operational experience with similar stores throughout the country and is confident that the one large loading space is more than sufficient for the needs of the retail expansion. Staff supports this modification request.

5. **Bicycle Parking §1-19-6.220 (H):** The Zoning Ordinance requires 1 bicycle rack for each 20 auto parking spaces for commercial uses. Therefore, the Applicant is required to provide 10 bicycle racks. The Applicant is proposing 10 racks which comply with the code requirement.
6. **Pedestrian Circulation and Safety §1-19-6.220 (G):** The Applicant has proposed sidewalks or provided for safe pedestrian access around all sides of the proposed structure. The Applicant will also install three wide crosswalks from the main parking area to the south of the proposed retail store into the main entrance.

#### **Conditions:**

- Loading space modification in accordance with Z.O. Section 1-19-6.210.D, to permit 1 12' x 50' large loading space.
- Parking space modification in accordance with Z.O. Section 1-19-6.220.A for the (14) space parking deficiency.

**Public Utilities §1-19-3.300.4 (C):** *Where the proposed development will be served by publicly owned community water and sewer, the facilities shall be adequate to serve the proposed development. Where proposed development will be served by facilities other than publicly owned community water and sewer, the facilities shall meet the requirements of and receive approval from the Maryland Department of the Environment/the Frederick County Health Department.*

#### **Findings/Conclusions**

1. **Public Water and Sewer:** The site is to be served by public water and sewer and is classified W-1, S-1. The entire site is in pressure Zone #1 with water coming from New Design WTP and sewer flowing into the Ballenger McKinney WWTP. While the public sewer and water facilities

are currently adequate to serve the Project, the Applicant acknowledges that capacity is not guaranteed until purchased.

**Natural features §1-19-3.300.4 (D):** *Natural features of the site have been evaluated and to the greatest extent practical maintained in a natural state and incorporated into the design of the development. Evaluation factors include topography, vegetation, sensitive resources, and natural hazards.*

### **Findings/Conclusions**

1. **Topography:** The FSK Mall site is flat; the proposed plan will not significantly alter the existing topography on site other than what is to be expected during construction.
2. **Vegetation:** The Applicant is proposing a landscape plan in accordance with Zoning Ordinance Section 1-19-6.400.
3. **Natural Hazards:** Based on available mapping, no wetlands or FEMA floodplain are located on the site.

This criterion has been met based upon the above findings and the fact that the site is an existing parking lot that will be enhanced by the landscaping as proposed by the Applicant.

**Common Areas §1-19-3.300.4 (E):** *If the plan of development includes common areas and/or facilities, the Planning Commission as a condition of approval may review the ownership, use, and maintenance of such lands or property to ensure the preservation of such areas, property, and facilities for their intended purposes.*

### **Findings/Conclusions**

1. **Proposed Common Area:** There are no common areas proposed as part of this development proposal.

### **Other Applicable Regulations**

**Stormwater Management – Chapter 1-15.2:** Stormwater management (SWM) shall be provided in accordance with the 2009 Maryland Storm water Design Manual, including all revisions and all supplements. A SWM concept plan (AP #11610) was approved for this project on 3/17/2011. A SWM development plan (AP #14131) is currently under review. A final SWM plan will be provided with the Improvement Plans.

**Subdivision Regulations – Chapter 1-16:** There is no subdivision activity proposed as part of this land development.

### **APFO – Chapter 1-20:**

1. **Schools.** Schools are not impacted because the proposed development is a non-residential use.
2. **Water/Sewer.** While the public sewer and water facilities are currently adequate to serve the Project, the Applicant is aware that capacity is not guaranteed until purchased. APFO approval for sewer and water does not guarantee that plats will be recorded and building permits will be issued. Building permit issuance is subject to compliance with the Annotated Code of Maryland, Environment Article Section 9-512, et seq. and all applicable County regulations.

- 3. Roads.** As proposed in the traffic impact analysis (TIA) performed by The Traffic Group, dated December 4, 2013, the Project will generate 61 mid-day and 61 pm weekday, and 94 Saturday, new peak hour trips. In accordance with §1-20-31 (APFO – Roads) All tested intersections in the study area meet the capacity adequacy threshold of level of service E or better, however a number of intersections fail to operate adequately because of extensive queuing beyond the road system's ability to contain the traffic.

Most of these deficiencies are being mitigated by others (Wawa adding a lane on the Holiday lane approach to MD 355), would be mitigated by others (SHA improvements to MD 85) or not impacted by this site (northbound left turn onto Lowes Lane). However the site operational deficiencies on approaches to the MD 85/Spectrum Drive intersection are impacted by the site and not being mitigated by others. Therefore, because the site qualifies under §1-20-12(G) as a limited impact development, the following new escrow account is being proposed to mitigate operational failure at the MD 85/Spectrum Drive intersection:

New escrow account for MD 85/Spectrum Dr. Intersection: Addition of a third southbound through lane, outside lane being a through/right turn lane. The estimated cost of right-of-way and construction for this improvement is being developed. The Developer's proportionate share of this Road Improvement is 11.5%.

In satisfaction of APFO requirements to provide fair share contributions to existing escrow accounts per §1-20-12(H), the Developer shall pay into County-held escrow accounts the following pro rata contributions:

Existing Escrow Account #3976 for MD 85/Guilford Drive Intersection: Addition of a second northbound left turn lane on MD - The estimated cost of the Road Improvement is \$439,527. The Developer's proportionate share of this Road Improvement is 2.4%. Therefore the Developer hereby agrees to pay \$10,549 to the escrow account for this Road Improvement.

These fair share contributions shall be paid prior to the issuance of a building permit. Should this payment not be made within one year of the execution of the LOU, the County reserves the right to adjust this amount, based on an engineering cost index.

In addition to the above payments into new and existing escrow accounts, the Developer shall convey in fee simple right-of-way, all necessary lands from Harding Farm Section 5, Francis Scott Key (FSK) Mall Parcel D, for the MD 85 Phase 1 improvements, as currently outlined in the State Highway Administration (SHA) project and identified on right-of-way plat numbers 59692 and 59693, when deemed necessary by the State Highway Administration. The value of this land contribution approximately represents the Developer's proportionate contribution to Existing Escrow Account Numbers 3258 and 3259, MD 85 (Buckeystown Pike) intersection improvements with I-270 Northbound and Southbound ramps.

The APFO approval is valid for three (3) years from the date of Commission approval; therefore, the APFO approval expires on March 12, 2017.

**Forest Resource – Chapter 1-21:** Redevelopment projects over previously developed areas covered by impervious surface and located within a Priority Funding Area are exempt from FRO requirements in accordance with §1-21-7 (N).

**Historic Preservation – Chapter 1-23:** There are no historic structures located on this site.



## Summary of Agency Comments

<b>Other Agency or Ordinance Requirements</b>	<b>Comment</b>
<b>Development Review Engineering (DRE):</b>	Approved
<b>Development Review Planning:</b>	Hold: Address all agency comments as the plan proceeds through to completion.
<b>State Highway Administration (SHA):</b>	N/A
<b>Div. of Utilities and Solid Waste Mngt. (DUSWM):</b>	Conditionally Approved
<b>Health Dept.</b>	Conditionally Approved
<b>Office of Life Safety</b>	Approved
<b>DPDR Traffic Engineering</b>	Hold
<b>Historic Preservation</b>	N/A

## **RECOMMENDATION**

Staff has no objection to conditional approval of the Site Development Plan and Adequate Public Facilities. If the Planning Commission conditionally approves the site development plan, the site development plan is valid for a period of three (3) years from the date of Planning Commission approval. If the Planning Commission conditionally approves the APFO, the APFO approval will be valid for a period of three (3) years from the date of Planning Commission approval or until March 12, 2017.

Based upon the findings and conclusions as presented in the staff report the application meets or will meet all applicable zoning, APFO, and FRO requirements once the following conditions are met:

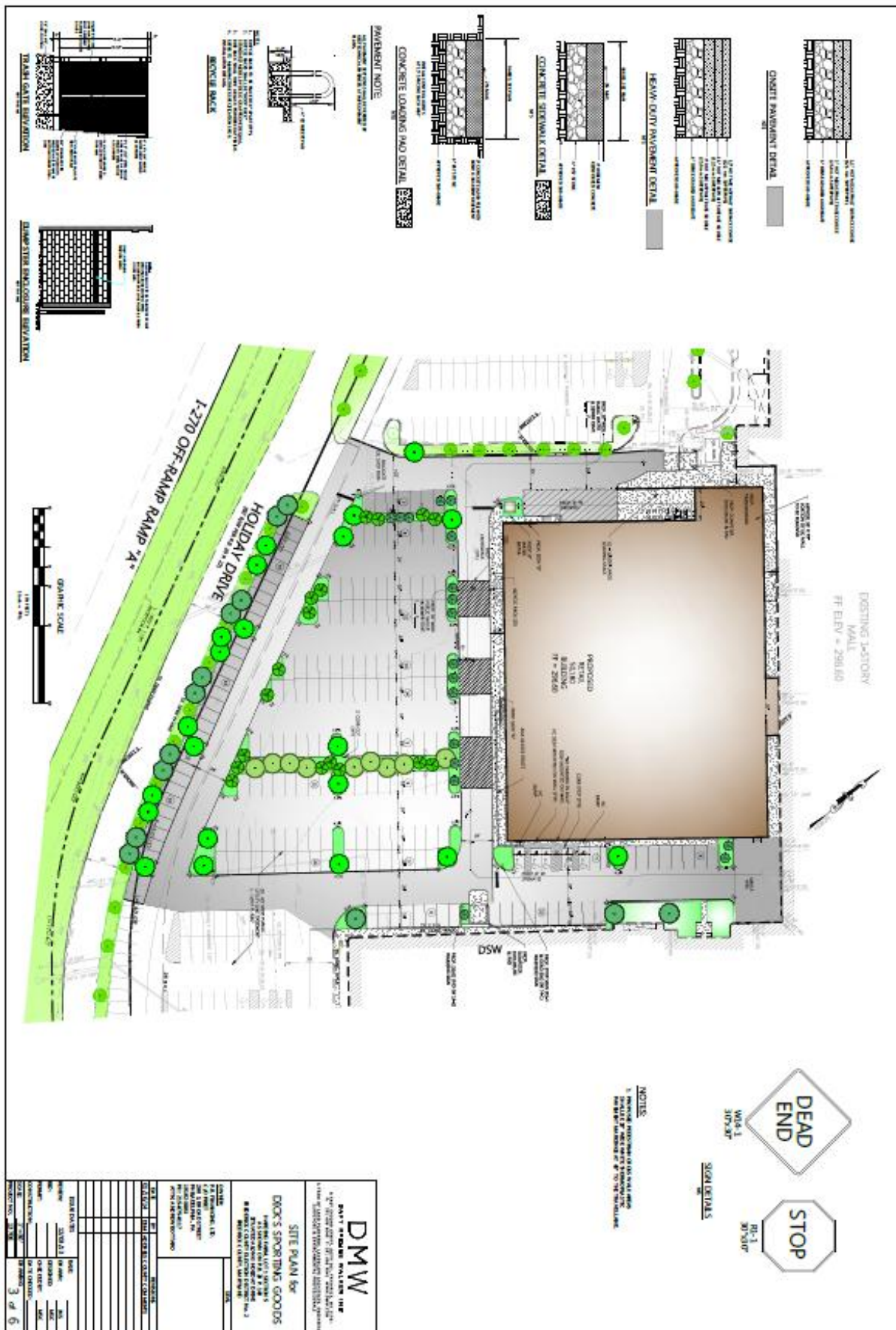
1. Address all agency comments as the plan proceeds through to completion.
2. Lighting modification in accordance with Zoning Ordinance Section 1-19-6.500.G, to permit the utilization of 3 existing 50 foot tall parking lot light poles and to permit light spillage in excess of 0.5 foot candles into the existing public road (Holiday Drive).
3. Loading space modification in accordance with Z.O. Section 1-19-6.210.D, to permit 1 - 12' x 50' large loading space.
4. Parking space modification in accordance with Z.O. Section 1-19-6.220.A for the (14) space parking deficiency.
5. Execution of the APFO mitigation as set forth in the Letter of Understanding (LOU)

## **PLANNING COMMISSION ACTION**

### **MOTION TO APPROVE**

I move that the Planning Commission **APPROVE** Site Plan SP-74-01, AP #14030 and APFO, **with conditions** as listed in the staff report for the proposed 50,180 square foot retail expansion of the existing FSK Mall, based on the findings and conclusions of the staff report and the testimony, exhibits, and documentary evidence produced at the public meeting.

# Exhibit #1: Dick's Sporting Goods Site Plan Rendering



Dick's Sporting Goods-FSK Mall

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**Exhibit #2: Dick's Sporting Goods: Parking Space Modification Justification**



February 24, 2014

Mr. Tolson DeSa  
Frederick County Department of Development Review  
30 North Market Street  
Frederick, MD 21701

Re: FSK Mall Dick's Sporting Goods -- Site Plan  
Parking Space Modification Request  
SP-74-01, A/P No. 14030  
DMW Project No. 13708

Dear Mr. DeSa:

In accordance with Section 1-19-6.240 of the Frederick County Zoning Ordinance, please accept this letter as our request for a modification to Section 1-19-6.220. The owner is requesting a reduction in the number of parking spaces to be provided on this site. Since there is adequate parking provided on adjacent properties which are included within an existing shared parking easement recorded in liber 1902 at folio 1181, the number of parking spaces as shown on the Site Plan will be sufficient for their needs.

If you should have any questions or need additional information, please feel free to contact me at 301-696-9040.

Sincerely,

Daft-McCune-Walker, Inc.

A handwritten signature in black ink, appearing to read "Mark S. Crissman", is written over a horizontal line.

Mark S. Crissman, P.E., P.L.S.  
Vice President | Branch Office Manager

MSC/tb

cc: Mr. Andy Bottaro, PREIT Services, LLC (via email only)  
Mr. Bill DeTora, PREIT Services, LLC (via email only)  
Noel Manalo, Esq. Miles & Stockbridge (via email only)

TOWSON: 200 EAST PENNSYLVANIA AVENUE, TOWSON, MARYLAND 21286 P: 410 296 3333 F: 410 296 4705  
FREDERICK: 8 EAST SECOND STREET, SUITE 201, FREDERICK, MARYLAND 21701 P: 301 696 9040 F: 301 696 9041  
BERLIN: THE PAVILIONS, 11200 RACETRACK ROAD, SUITE 202, BERLIN, MARYLAND 21811 P: 410 641 9980 F: 410 641 9948

**Dick's Sporting Goods-FSK Mall**

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**Exhibit #3: Dick's Sporting Goods: Loading Space Modification Justification**



February 11, 2014

Mr. Tolson DeSa  
Frederick County Department of Development Review  
30 North Market Street  
Frederick, MD 21701

Re: FSK Mall Dick's Sporting Goods – Site Plan  
Loading Space Modification Request  
SP-74-01, A/P No. 14030  
DMW Project No. 13708

Dear Mr. DeSa:

In accordance with Section I-19-6.210(D) of the Frederick County Zoning Ordinance, please accept this letter as our request for a modification to Section I-19-6.210(B). The tenant is requesting a reduction in the number of large loading spaces to be provided on this site. In accordance with their experience with the operations of these retail stores in multiple locations across the country, the one loading space as shown on the Site Plan will be adequate for their needs.

If you should have any questions or need additional information, please feel free to contact me at 301-696-9040.

Sincerely,

Daft-McCune-Walker, Inc.

A handwritten signature in black ink, appearing to read "Mark S. Crissman", is written over a horizontal line.

Mark S. Crissman, P.E., P.L.S.  
Vice President | Branch Office Manager

MSC/tb

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FREDERICK: 8 EAST SECOND STREET, SUITE 201, FREDERICK, MARYLAND 21701 P: 301 696 9040 F: 301 696 9041  
BERLIN: THE PAVILIONS, 13200 RACETRACK ROAD, SUITE 202, BERLIN, MARYLAND 21811 P: 410 641 9980 F: 410 641 9948

**Dick's Sporting Goods-FSK Mall**

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**Exhibit #4: Dick's Sporting Goods: Letter of Understanding-LOU**



**FREDERICK COUNTY GOVERNMENT  
DIVISION OF COMMUNITY DEVELOPMENT**

*Gary Hessong, Acting Division Director*

*Planning & Development Review Department  
Jim Gugel, Planning Director*

30 North Market Street  
Frederick, Maryland 21701

www.FrederickCountyMD.gov  
O: 301-600-1153 F: 301-600-2054

**Commissioners**

Blaine R. Young  
*President*

C. Paul Smith  
*Vice President*

Billy Shreve  
David P. Gray  
Kirby Delauter

Lori L. Depies, CPA  
*County Manager*

**ADEQUATE PUBLIC FACILITIES LETTER OF UNDERSTANDING**

**Dick's Sporting Goods at FSK Mall**

*Site Plan #SP 74-01 AP #13973*

**In General:** The following Letter of Understanding ("Letter") between the Frederick County Planning Commission ("Commission") and PR Financing, LTD (the "Developer"), together with its/their successors and assigns, sets forth the conditions and terms which the Commission deems to be the minimum necessary improvements dealing with school, water, sewer, and road improvements that must be in place for the property identified below to be developed, as proposed under the Dick's Sporting Goods Site Plan (the "Project"), in compliance with the Frederick County Adequate Public Facilities Ordinance ("APFO").

The Developer, its successors and assigns, hereby agrees and understands that unless the required improvements (land conveyance and contributions to road escrow accounts, as specified below) are provided in accordance with this Letter, APFO requirements will not be satisfied and development will not be permitted to proceed.

This Letter concerns itself with the Developer's approximate 46,000 sq ft shopping center net addition, which is zoned General Commercial (GC), and located on the east side of MD 85 and north of I-270, with access on Holiday and Spectrum Drives. This APFO approval will be for the development of a Dick's Sporting Goods store, which was conditionally approved by the Commission on March 12, 2014.

**Schools:** Schools are not impacted because the development of the property is a non-residential use.

**Water and Sewer:** The Property has a water and sewer classification of W-1 (Connected), S-1 (Connected). While the public sewer and water facilities are currently adequate to serve the project, the Developer recognizes that capacity is not guaranteed until purchased. APFO approval for sewer and water does not guarantee that plats will be recorded and building permits will be issued. Plat recordation and building permit issuance are subject to compliance with the Annotated Code of Maryland, Environment Article Section 9-512, et. seq and all applicable county regulations, including but not limited to Sec. 1-16-106 of the Frederick County Subdivision Regulations.

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**Road Improvements:** As proposed in the traffic impact analysis (TIA) performed by The Traffic Group, dated December 4, 2013, the Project will generate the following numbers of new peak hour trips: 61 mid-day, 61 pm weekday and 94 Saturday. The Developer is required to mitigate all road improvements that do not satisfy adequacy standards per §1-20-31. In addition, the Developer is required to provide fair share contributions to existing escrow accounts per §1-20-12(H).

As a condition of APFO approval of the Project, the Developer has agreed to convey fee simple right-of-way across all lands from Harding Farm Section 5, Francis Scott Key (FSK) Mall Parcel D, as necessary for the MD 85 Phase 1 improvements, as currently outlined in the State Highway Administration (SHA) project and identified on right-of-way plat numbers 59692 and 59693, when deemed necessary by the State Highway Administration but no later than one year from the date of this approval. The value of this land contribution approximately represents the amount of the Developer's proportionate contribution to Escrow Account Numbers 3258 and 3259, MD 85 (Buckeystown Pike) intersection improvements with I-270 Northbound and Southbound ramps

In full satisfaction of APFO requirements to mitigate site-generated trips per §1-20-31, the Developer shall pay into a new County-held escrow account, the following pro rata contribution:

New escrow account for MD 85/Spectrum Dr. Intersection: Addition of a third southbound through lane, outside lane being a through/right turn lane. The estimated cost of right-of-way and construction for this improvement is \$ \_\_\_\_\_. The Developer's proportionate share of this Road Improvement is 11.5%. Therefore the Developer hereby agrees to pay \$ \_\_\_\_\_ to the escrow account for this Road Improvement.

In satisfaction of APFO requirements to provide fair share contributions to existing escrow accounts per §1-20-12(H), the Developer shall pay into County-held escrow accounts the following pro rata contribution:

Existing Escrow Account #3976 for MD 85/Guilford Drive Intersection: Addition of a second northbound left turn lane on MD - The estimated cost of the Road Improvement is \$439,527. The Developer's proportionate share of this Road Improvement is 2.4%. Therefore the Developer hereby agrees to pay \$10,549 to the escrow account for this Road Improvement.

Therefore, prior to the issuance of any building permits, the Developer hereby agrees to pay \$ \_\_\_\_\_ to the escrow accounts described above for these Road Improvements. Should these payments not be made within one year of the execution of this Letter, the County reserves the right to adjust this amount, based on an engineering cost index.

**Period of Validity:** The APFO approval is valid for three (3) years from the date of Commission approval; therefore, the APFO approval expires on March 12, 2017.

**Disclaimer:** This Letter pertains to APFO approval only, and shall not be construed to provide any express or implied rights to continue the development process. The Project remains subject to all applicable rules and regulations, including but not limited to those related to zoning, water and sewer, and subdivision. The Planning Commission's jurisdiction and authority is limited by State and County law, and approvals may be required from other local or state governmental agencies before the proposed development can proceed.

**PR Financing, LTD:**

By: \_\_\_\_\_ Date:

Name:

**FREDERICK COUNTY PLANNING COMMISSION:**

By: \_\_\_\_\_ Date:

Robert Lawrence, Chair or Dwaine E. Robbins, Secretary

**ATTEST:**

By: \_\_\_\_\_ Date:

Gary Hessong, Director, Permits & Inspections

*Planner's Initials / Date* \_\_\_\_\_

*County Attorney's Office Initials / Date* \_\_\_\_\_  
(Approved as to legal form)